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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,115

01/03/2005

Olivier Favorel

0518-1080-1

9534

466

7590

06/18/2009

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EXAMINER

VETTER, DANIEL

ART UNIT

PAPER NUMBER

3628

MAIL DATE

DELIVERY MODE

06/18/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/520,115	<b>Applicant(s)</b> FAVOREL ET AL.	
	<b>Examiner</b> DANIEL P. VETTER	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 21-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/16/2009</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of the Claims***

1. Claims 11-30 were previously pending. Claims 11-20 and 30 were canceled, and claims 21-29 were amended in the reply filed April 16, 2009. Claims 21-29 are currently pending.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 16, 2009 has been entered.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on April 16, 2009 has been considered.

### ***Response to Arguments***

4. Applicant's amendment to claim 24 overcomes the objection to this claim and it is withdrawn.

5. Applicant's arguments with respect to the recited attribute weights and determination by a processor are moot in view of the new grounds of rejection.

6. Applicant's arguments filed with respect to the rejections under § 103(a) have been fully considered but they are not persuasive. Applicant argues that the seat assignment in Boies is not global. Remarks, pages 9-11. Examiner respectfully disagrees. Boies teaches allocating all customers, not just one individual, and performing the allocation procedure each time for subsequent requests (§ 0028). The claims do not require that all customers are actually moved for an additional request.

Boies teaches that all customers' preferences are considered during the allocation in order to determine a new best-fit global solution for each customer (§ 0045), and examiner maintains that it meets this limitation. Applicant also argues that Boies does not teaching using the priority during the allocation process, however this is taught in Walker as set forth in the rejection below.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 23 recites the limitation "the waiting list" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 21, 22, and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boies, et al., U.S. Pat. No. 2002/0082878 (Reference A of the PTO-892 part of paper no. 20080513) in view of Maritzen, et al., U.S. Pat. Pub. 2002/0052797 (Reference A of the attached PTO-892) and Walker, et al., U.S. Pat. No. 6,112,185 (Reference B of the PTO-892 part of paper no. 20080513).

12. As per claim 21, Boies teaches a method for the allocation of seats to customers, usable with a computerized reservation system, comprising: assignment, in a database, to each customer, of data relative to placement criteria (§ 0038); determination of a

Art Unit: 3628

satisfaction value of the customers for each seat as a function of agreement with the placement criteria (§ 0046), assignment, in a database, to each customer, of a priority level (§ 0038), assignment of seats to all the customers by allocation with an allocation server, to each customer, of the available seat having the maximum satisfaction value (§ 0046).

Boies does not teach that the determination is by a processor, and assignment to each placement criterion, of an attribute weight; which is taught by Maritzen (§§ 0022-24). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings because this is merely a combination of old and already-known elements. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable. Moreover, making a determination by a processor rather than a person is merely the automation of an already-known step. Broadly providing an automatic means to accomplish a known activity is not sufficient to distinguish a claimed invention over the prior art. *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). In this case, performing the determination automatically using a processor would have been an obvious expedient that could have been obtained through routine engineering producing predictable results. Examiner notes that while the embodiment set forth as an example in Maritzen does not specifically deal with a seat for travel, one skilled in the art would have recognized that the weighting preferences methodology used in Maritzen are easily extensible for other products and services that have preferable attributes such as an airline seat.

Boies does not explicitly teach that the allocation is by decreasing order of level of priority, which is taught by Walker (col. 6, lines 6-11). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Walker because this is merely a combination of old and already-known elements. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could

Art Unit: 3628

be implemented through routine engineering and that the results of the combination were predictable.

13. As per claim 22, Boies in view of Maritzen and Walker teaches the method of claim 21 as described above. Boies further teaches the fact that the steps of allocation are repeated upon each new reservation or cancellation of a seat (§ 0028).

14. As per claim 24, Boies in view of Maritzen and Walker teaches the method of claim 21 as described above. Boies further teaches there is assigned to each seat at least one attribute indicating inclusion in group of available seats, for the definition of the seats available for allocation (§ 0021).

15. As per claim 25, Boies in view of Maritzen and Walker teaches method of claim 24 as described above. Boies further teaches that there is excluded from the group of available seats, seats whose reservation is confirmed by the customer (§ 0009).

16. As per claim 26, Boies in view of Maritzen and Walker teaches method of claim 25 as described above. Boies further teaches for customers whose seat has a confirmed reservation, there is carried out a search procedure for a possible better seat by the steps of allocation (§ 0046).

17. As per claim 27, Boies in view of Maritzen and Walker teaches method of claim 21 as described above. Boies further teaches the placement criteria comprise data as to zone or location of the seats desired by the customer (§ 0042).

18. As per claim 28, Boies in view of Maritzen and Walker teaches method of claim 21 as described above. Boies further teaches the placement criteria comprise an adjacency criterion of the customer to at least one other customer (§ 0039).

19. As per claim 29, Boies in view of Maritzen and Walker teaches method of claim 21 as described above. Boies further teaches there is assigned to each placement criterion an attribute defining it either as mandatory or as preferred (§§ 0041-43).

20. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boies, et al. in view of Maritzen, et al. and Walker, et al. as applied to claim 21 above, further in view of Official Notice considered admitted prior art.

Art Unit: 3628

21. As per claim 23, Boies in view of Walker teaches the program of claim 11 and method of claim 21 as described above. Boies in view of Walker does not teach upon all the available seats being assigned, placing remaining customers on the waiting list. Official Notice was previously taken and not challenged that waiting lists are old and well-known in the reservations art. This finding is considered admitted prior art. It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above finding of Official Notice, for example, so that a list of potential passengers can be easily accessed in the event that another seat becomes available. Moreover, this is merely a combination of old and already-known elements. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable.

### ***Conclusion***

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL P. VETTER whose telephone number is (571)270-1366. The examiner can normally be reached on Monday through Thursday from 8am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 3628

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/John W Hayes/  
Supervisory Patent Examiner, Art Unit 3628